

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 10-4431 (DSD/AJB)

Otha Eric Townsend,

Plaintiff,

v.

ORDER

Sharon Jacks, Assistant Public
Defender, Individual and Official
Capacity also known as Sharon Jackson,

Defendant.

This matter is before the court upon the pro se objections of plaintiff Otha Eric Townsend to the November 9, 2010, report and recommendation of Chief Magistrate Judge Arthur J. Boylan. In his report, the magistrate judge recommends summary dismissal of this action because the complaint fails to state a claim under 42 U.S.C. § 1983. See 28 U.S.C. § 1915A. Specifically, the magistrate judge determined that the acts of Sharon Jacks as a public defender are immune from § 1983 liability and that success on the complaint necessarily implies the invalidity of Townsend's conviction. Townsend objects to both determinations.

The court reviews the report and recommendation of the magistrate judge de novo. 28 U.S.C. § 636(b)(1)©; Fed. R. Civ. P. 72(b)(3); D. Minn. LR 72.2(b). After a de novo review, the court finds that the report and recommendation of the magistrate judge is well reasoned and correctly disposes of the complaint. Accordingly, **IT IS HEREBY ORDERED** that:

1. Plaintiff's objections [Doc. No. 6] to the magistrate judge's report and recommendation are overruled;

2. The magistrate judge's report and recommendation [Doc. No. 6] is adopted in its entirety;

3. Defendant's motion to dismiss [Doc. No. 5] is denied as moot.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: December 7, 2010

s/David S. Doty
David S. Doty, Judge
United States District Court